

ESTTA Tracking number: **ESTTA884058**

Filing date: **03/19/2018**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Poreba Machine Tool Company LLC		
Entity	Limited Liability Company	Citizenship	Illinois
Address	358 Hollow Hill Road Wauconda, IL 60084 UNITED STATES		

Attorney information	NICK MARSICO HUCK BOUMA PC 1755 S. NAPERVILLE ROAD #200 WHEATON, IL 60189 UNITED STATES Email: nmarsico@huckbouma.com Phone: 630-344-1158
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Applicant Information

Application No	79196339	Publication date	02/20/2018
Opposition Filing Date	03/19/2018	Opposition Period Ends	03/22/2018
International Registration No.	1319291	International Registration Date	07/27/2016
Applicant	Fabryka Obrabiarek RAFAMET SpÅ³ka Akcyjna ul. Staszica 1 PL-47-420 Kuznia Raciborska POLAND		

Goods/Services Affected by Opposition


Class 007. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Machine tools, namely: Computer controlled lathes, Lathes for metalworking, Milling machines for metalworking, Milling-drilling machines for metalworking, Drilling machines for metalworking, Numerically controlled turning machines, Power operated metalworking machine tools, namely, turning tools

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	87827131	Application Date	03/09/2018
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	POREBA
Design Mark	
Description of Mark	NONE
Goods/Services	Class 007. First use: First Use: 1982/08/31 First Use In Commerce: 1982/08/31 horizontal lathes and boring mills

Attachments	87827131#TMSN.png(bytes) Opposition - Statement of Claim.pdf(83203 bytes)
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Signature	/NICK MARSICO/
Name	NICK MARSICO
Date	03/19/2018

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application Serial No.:	79,196,339
Mark:	POREBA 1798
Published in the Official Gazette on:	February 20 , 2018
Poreba Machine Tool Company LLC Opposer, v. Fabryka Obrabiarek RAFAMET Spółka Akcyjna, Applicant.	

NOTICE OF OPPOSITION

Poreba Machine Tool Company LLC, an Illinois corporation, at 358 Hollow Hill Road, Wauconda, Illinois 60084 (“*Opposer*”), believes that it will be damaged by registration of the mark shown in Serial No. 79,196,339, and hereby opposes the same.

As grounds of opposition, Opposer alleges that:

1. Opposer, including its predecessors, since at least as early as August 31, 1982, has been and now manufactures and sells horizontal lathes and boring mills.

2. Opposer, including its predecessors,, since at least as early as August 31, 1982, have been and now is using the trademark “POREBA” extensively in U.S. commerce as a trademark in connection with sells horizontal lathes and boring mills. Opposer’s use of such mark has been valid and continuous since August 31, 1982 and has not been abandoned.

3. On October 7, 1993, Opposer filed an application for registration of trademark “POREBA”, Serial No. 74,444,980, for horizontal lathes in International Class 7, which was registered by the Patent and Trademark Office as registration number 1,864,529. Registration number 1,864,529 lapsed on January 8, 2018 because Opposer did not file a declaration under Section 8. However, Opposer in fact continued to use the POREBA trademark continuously since 1982 and has common law rights the POREBA trademark from 1982.

4. On March 9, 2018, Opposer filed an application for registration of trademark “POREBA”, Serial No. 87,827,131, for horizontal lathes and boring mills in International Class 7.

5. Opposer’s mark is symbolic of its goodwill and consumer recognition built up by Opposer through continued use of Opposer’s mark. Opposer has been continuously offering the goods to the public and advertised its goods. Through its advertising and continuous use since August 31, 1982, the public has come to recognize “POREBA” as signifying Opposer and its goods.

6. Applicant filed its Application Serial No. 79,196,339 seeking register the trademark “POREBA 1798” and design for “Machine tools, namely: Computer controlled lathes, Lathes for metalworking, Milling machines for metalworking, Milling-drilling machines for metalworking, Drilling machines for metalworking, Numerically controlled turning machines, Power operated metalworking machine tools, namely, turning tools” in International Class 7. Applicant’s trademark application is based on a foreign registration that was filed only on July 27, 2016.

7. Applicant’s goods are very similar to Opposer’s goods. If Applicant were to be permitted to register its trademark “POREBA 1798,” then consumers are likely to be confused, mistaken, or deceived by the concurrent use of Opposer’s trademark and the trademark of Applicant to the irreparable harm and damage to Opposer.

8. Consumers are likely to be confused, mistaken, or deceived into the belief, contrary to the fact, that Applicant’s goods emanate from or are in some way sponsored or approved by Opposer or are otherwise related to Opposer. Therefore, any objections, faults, or disapproval of consumers with respect to Applicant’s goods will reflect negatively upon Opposer because of the substantial similarity to Opposer’s trademark “POREBA 1798.” In view of Applicant’s trademark with Opposer’s trademark, and in view of the similarity of the goods of the respective parties, Applicant’s use of its trademark might disparage and falsely suggest a connection with Opposer, which would injure the reputation that Opposer has established for the goods provided under the “POREBA 1798” trademark since 1982.

9. In view of the similarity of the respective marks and the goods of the respective parties, Applicant’s mark so resembles Opposer’s mark previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive. Applicant’s use of its trademark “POREBA 1798” interferes with Opposer’s use of its “POREBA” trademark, and continued use of Applicant’s trademark will seriously harm Opposer.

WHEREFORE, Opposer prays that said Application Serial No. 79,196,339 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.